IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 8292 of 2006

For Approval and Signature:

HONOURABLE MR.JUSTICE JAYANT PATEL

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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ARCHANA RAMANBHAI PATEL - Petitioner(s)

Versus

STATE OF GUJARAT & 2 - Respondent(s)

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Appearance :

HL PATEL ADVOCATES for Petitioner(s) : 1,
MR MENGDEY, AGP for Respondent(s) : 1,
RULE SERVED BY DS for Respondent(s) : 2 - 3.

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CORAM : HONOURABLE MR.JUSTICE JAYANT PATEL

Date : 20/06/2006

ORAL JUDGMENT

1. With the consent of the learned Counsel appearing for the petitioner, Mr.Pandya and Mr.Mengdey, learned AGP appearing for the respondent State, the matter is finally heard today. So far as the School is concerned, it is a formal party and it has not appeared, though the notice of Rule has been served.

2. The short facts of the case are that the petitioner has appeared in the examination of 12th Standard and when the petition was filed, the petitioner was student of Smt. M.P. Sheth Girls' High School – respondent No.3 herein. It is the case of the petitioner that in the school record, the caste mentioned is “Hindu Patel” and the word “Dhodia” is not mentioned. The contention of the petitioner is that in the School Leaving Certificate of father and mother of the petitioner, the caste mentioned is “Dhodia”, which is a scheduled tribe, whereas by mistake in the school record of the petitioner, the caste mentioned is “Patel”. It has been submitted that the Vigilance Officer (Class-I), Scheduled Tribes Development, Valsad has also

issued the certificate dated 30.1.2006 stating that the petitioner belongs to Hindu – Dhodia Tribe, which is a scheduled tribe and only surname is “Patel” and not the caste of the petitioner is “Patel”. The case of the petitioner further is that the petitioner had applied to D.E.O., through the School, but no action is taken for correction and, therefore, this petition.

3. It is the contention of the petitioner that the petitioner has passed 12th Standard Examinations and, therefore, if the School record is not accordingly corrected, more particularly the School Leaving Certificate, the petitioner may have the difficulty in getting admission in the reserved seat for further study and, therefore, there is urgency. Mr.Pandya, learned Counsel appearing for the petitioner, submitted that though the prayer is made in the petition for insertion of Sub-caste “Dhodia”, the word “Patel” to be deleted and “Hindu – Dhodia” is to be mentioned as per the School Leaving Certificates of the father and mother of the

petitioner.

4. Mr.Mengdey, learned AGP submitted that as per the Gujarat Secondary Education Regulation, 1974, vide Clause No.6, after the School is left, the school record cannot be altered and, therefore, he submitted that it is not possible for the District Education Officer to direct for altering of the record of the school, more particularly the School Leaving Certificate in the present case.

5. It appears that, as stated by the petitioner, up till now the School Leaving Certificate is not issued, since the petitioner has studied in 12th Standard and the petitioner has passed recently. Therefore, the District Education Officer can direct for alteration in the record of the school in case he is satisfied on merits of such alteration.

6. As regards the satisfaction of the claim of the petitioner is concerned, in normal circumstances a child, born out of a wed-lock of father and mother, would be entitled to have the record based on the caste or tribe of the father.

Since, in the present case, the certificate is issued, copy whereof is produced in the present petition, ultimately it will be for the District Education Officer – Respondent No.2 to examine the genuineness of the claim made by the petitioner that she belongs to “Hindu – Dhodia” tribe and not “Patel” caste and if respondent No.2 is satisfied that the claim is genuine, the necessary direction can be given by respondent No.2 to respondent No.3 – School for correcting the record of the School.

7. In view of the above, it is hereby directed that respondent No.2 shall examine the genuineness of the claim for alteration of the tribe of the petitioner, as early as possible, preferably within a period of two weeks from the date of receipt of the order of this Court and shall decide the matter as to whether claim of the petitioner is genuine or not. In the event respondent No.2 is satisfied about the claim of the petitioner for alteration in the school record, necessary consequential direction shall be given by respondent No.2 to respondent No.3

for alteration of the record.

8. The petition is partly allowed to the aforesaid extent. Rule made absolute accordingly. Considering the facts and circumstances, there shall be no order as to costs. Direct service is permitted.

20.6.2006 **(Jayant Patel, J.)**

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